

AMENDED IN ASSEMBLY JUNE 30, 2004  
AMENDED IN ASSEMBLY JUNE 15, 2004  
AMENDED IN ASSEMBLY MARCH 23, 2004  
AMENDED IN ASSEMBLY MARCH 4, 2004  
AMENDED IN ASSEMBLY JUNE 19, 2003

**SENATE BILL**

**No. 574**

**Introduced by Senator Alpert**  
*(Coauthors: Assembly Members Benoit and Vargas)*

February 20, 2003

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~~An act to add Section 3702.85 to the Labor Code, relating to workers'~~  
*An act to add Section 1033.5 to the Insurance Code, relating to*  
*workers' compensation.*

LEGISLATIVE COUNSEL'S DIGEST

SB 574, as amended, Alpert. Workers' compensation.

Existing law requires employers that elect to be self-insured for workers' compensation liabilities to obtain a certificate of consent to self-insure from the Director of Industrial Relations, and requires employers that cease to be self-insured to discharge their continuing obligations to secure the payment of workers' compensation that accrued during the period of self-insurance by complying with various procedures, including the deposit and maintenance of a security deposit with the director for accrued liability. Under these provisions, an employer, who is currently self-insured or who has ceased to be self-insured, may choose to discharge, without recourse or liability to the Self-Insurers Security Fund, its continuing obligations as a

self-insurer, by purchasing a special excess workers' compensation insurance policy, in accordance with existing provisions of law regarding the transfer of liability to insurers and subject to certain approvals and rate filing requirements.

This bill would, notwithstanding ~~any provision~~ *certain provisions* of law to the contrary, require the ~~California Insurance Guarantee Association to discharge liabilities in an amount not to exceed \$8 million of prescribed local school employers arising from the insolvency of Fremont Companies, as defined~~ *liquidation estate of Fremont Indemnity Company to forward to specified school district employers a lump sum not to exceed \$8,000,000 for the express purpose of covering those claims already paid by the school district employers, as well as those liabilities incurred and to be incurred, for any self-insured retention transferred to Fremont Indemnity Company prior to January 1, 2000.* This bill would declare payments made by the association pursuant to this bill to constitute a loan and would set forth the manner of repayment.

This bill would make certain findings and declarations regarding the *vesting of a claimant's rights pursuant to other provisions of law and the inapplicability of a general statute within the meaning of Section 16 of Article IV of the California Constitution.*

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1    ~~SECTION 1.—Section 3702.85 is added to the Labor Code,~~  
2    ~~immediately following Section 3702.8, to read:~~  
3    ~~3702.85.—(a) (1) Notwithstanding any provision of law to the~~  
4    ~~contrary, including, but not limited to, Section 3702.8, the~~  
5    ~~California Insurance Guaranty Association established pursuant to~~  
6    ~~Article 14.2 (commencing with Section 1063) of Chapter 1 of Part~~  
7    ~~2 of Division 1 of the Insurance Code, shall discharge the workers'~~  
8    ~~compensation liabilities, not to exceed eight million dollars~~  
9    ~~(\$8,000,000), for school district employers set forth in subdivision~~  
10    ~~(b) arising from the insolvency of the Fremont Companies. A lump~~  
11    ~~sum not to exceed the eight million dollars (\$8,000,000) shall be~~  
12    ~~forwarded by the California Insurance Guaranty Association to the~~  
13    ~~district employers or their agents and representatives for the~~  
14    ~~express purpose of covering those claims already paid by the~~

~~school districts, as well as those liabilities incurred and to be incurred by the school districts for those loss portfolio transfers entered into by the school district employers prior to January 1, 2000.~~

~~(2) For purposes of this subdivision, “Fremont Companies” means the Fremont Indemnity Corporation, or the Fremont General Corporation.~~

~~(3) All funds paid by the association under this subdivision shall, subject to subparagraph (C), constitute a loan which shall be repaid as follows:~~

~~(A) For repayment of sums paid by the association to the school district employers listed in subdivision (b), up to and including a total of eight million dollars (\$8,000,000), the association shall be paid from the amounts recovered by the State of California in the litigation involving the Fremont Companies filed in Los Angeles County on June 2, 2004, and assigned case number BC316472. Notwithstanding Section 1033 of the Insurance Code, the school district employers listed in subdivision (b) shall have a preference over the association with respect to any amounts recovered on behalf of the State of California in this litigation, which amount shall be used by the school district employers to repay the loan described in subdivision (a).~~

~~(B) To the extent that the total proceeds recovered on behalf of the State of California and paid to the association after a final disposition of the litigation described in subparagraph (A) are insufficient to cover the total liabilities covered by the association pursuant to this section, those amounts paid by the association pursuant to this subdivision that are in excess of the amount paid from the proceeds of the litigation may, subject to subparagraph~~

*SECTION 1. Section 1033.5 is added to the Insurance Code, to read:*

*1033.5. (a) (1) Notwithstanding the provisions of Sections 1019 and 1033, the liquidation estate of Fremont Indemnity Company shall forward to the school district employers set forth in subdivision (b), or their agents or representatives, a lump sum not to exceed eight million dollars (\$8,000,000) from the liquidation estate of the Fremont Indemnity Company for the express purpose of covering those claims already paid by the school district employers, as well as those liabilities incurred and to be incurred by the school district employers, for any self-insured*

1 retention transferred to the Fremont Indemnity Company prior to  
2 January 1, 2000.

3 (2) For purposes of this subdivision, "Fremont Indemnity  
4 Company" includes its predecessors, and "Fremont Companies"  
5 means the Fremont Indemnity Corporation or the Fremont  
6 General Corporation.

7 (3) All funds paid by the liquidation estate of Fremont  
8 Indemnity Company to the school district employers shall, subject  
9 to subparagraph (C), constitute a loan that shall be repaid as  
10 follows:

11 (A) For repayment of sums paid by the liquidation estate of  
12 Fremont Indemnity Company to the school district employers  
13 listed in subdivision (b), up to and including a total of eight million  
14 dollars (\$8,000,000), the liquidation estate shall be paid from the  
15 amounts recovered by it in its litigation against Fremont General  
16 Corporation, Los Angeles County Superior Court, case number  
17 BC316472. Notwithstanding Section 1033, the liquidation estate  
18 shall have a preference over the California Insurance Guarantee  
19 Association and all other guarantee associations with respect to  
20 any amounts recovered in this litigation, which amount shall be  
21 used by the estate in whole or partial satisfaction of the loan  
22 described in paragraph (1) of subdivision (a).

23 (B) To the extent that the total proceeds recovered by the  
24 liquidation estate of Fremont Indemnity Company after a final  
25 disposition of the litigation described in subparagraph (A) are  
26 insufficient to cover the total liabilities covered by the estate  
27 pursuant to this section, those amounts paid by the estate that are  
28 in excess of the amounts recovered may, subject to subparagraph  
29 (C), be repaid by the school district employers at no interest  
30 pursuant to a repayment agreement entered into between the  
31 school district employers and the ~~association~~ estate, unless the  
32 Legislature, in a subsequent measure, provides an alternative  
33 method for repayment or settlement of the loan.

34 ~~(C)~~

35 (4) Nothing provided in this section shall be deemed to waive  
36 or extinguish the rights of any person or entity arising out of the  
37 liquidation of, or litigation involving, the Fremont Companies.

38 (b) (1) Riverside Community College District.

39 (1.5) Community Colleges/Riverside County Superintendent  
40 of Schools Self Insurance Program For Employees.

- 1 (2) Mt. San Jacinto Community College District.
- 2 (3) Desert Community College District.
- 3 (4) Riverside County Office of Education.
- 4 (5) Cupertino Union School District.
- 5 (6) Desert Schools School Insurance Program for Employees.
- 6 (7) Palm Springs Unified School District.
- 7 (8) Palo Verde Unified School District.
- 8 (9) Palo Verde Community College District.
- 9 (10) Desert Sands Unified School District.
- 10 (11) Desert Center Unified School District.
- 11 (12) Coachella Valley Unified School District.
- 12 (13) Beaumont Unified School District.
- 13 (14) Western Riverside County School Insurance Program for
- 14 Employees.
- 15 (15) Temecula Valley Unified School District.
- 16 (16) Murrieta Valley Unified School District.
- 17 (17) Lake Elsinore Unified School District.
- 18 (18) Banning Unified School District.
- 19 (19) Menifee Union School District.
- 20 (20) Val Verde School District.
- 21 (21) San Jacinto Unified School District.
- 22 (22) Romoland School District.
- 23 (23) Perris Union High School District.
- 24 (24) Perris School District.
- 25 (25) Nuview Union School District.
- 26 (26) Moreno Valley Unified School District.
- 27 (27) Jurupa Unified School District.
- 28 (28) Hemet Unified School District.
- 29 (29) West San Gabriel Workers' Compensation Joint Powers
- 30 Authority.
- 31 (30) Duarte Unified School District.
- 32 (31) Arcadia Unified School District.
- 33 (32) San Marino Unified School District.
- 34 (33) San Gabriel School District.
- 35 (34) Garvey School District.
- 36 (35) El Monte City School District.
- 37 (36) Valle Lindo School District.
- 38 (37) Temple City Unified School District.
- 39 (38) Rosemead School District.
- 40 (39) Mountain View School District.

- 1 (40) El Monte Union High School District.
- 2 (41) Santa Barbara School District.
- 3 (42) Santa Cruz/San Benito County Schools Insurance Group.
- 4 (42.5) Santa Barbara High School District.
- 5 (43) Aromas-San Juan Unified School District.
- 6 (44) Willow Grove Union School District.
- 7 (45) Tres Pinos Union School District.
- 8 (46) Southside Elementary School District.
- 9 (47) San Benito High School District.
- 10 (48) San Benito County Office of Education.
- 11 (49) Panoche School District.
- 12 (50) North County Joint Union School District.
- 13 (51) Jefferson Elementary School District.
- 14 (52) Hollister Elementary School District.
- 15 (53) Cienega Union School District.
- 16 (54) Bitterwater Tulley Union School District.
- 17 (55) Soquel Union School District.
- 18 (56) Scotts Valley Unified School District.
- 19 (57) Santa Cruz County Office of Education.
- 20 (58) Santa Cruz City School District.
- 21 (59) San Lorenzo Valley Unified School District.
- 22 (60) Pajaro Valley Unified School District.
- 23 (61) Pacific Elementary School District.
- 24 (62) Mountain Elementary School District.
- 25 (63) Live Oak Elementary School District.
- 26 (64) Happy Valley Elementary School District.
- 27 (65) Cabrillo Community College District.
- 28 (66) Bonny Doon Union School District.
- 29 (67) West Covina Unified School District.

30 (c) *The Legislature finds and declares that, because the funds*  
31 *forwarded by the liquidation estate of the Fremont Indemnity*  
32 *Company to the school district employers pursuant to this section*  
33 *constitute a loan, these provisions do not alter or contradict the*  
34 *date of vesting of a claimant's rights as established in Section*  
35 *1019.*

36 SEC. 2. Due to the unique circumstances concerning the  
37 pre-January 1, 2000, actions by certain school employers to reach  
38 a resolution to their workers' compensation funding problems  
39 prior to the enactment of a statutory solution by the Legislature, it  
40 is necessary that those employers not be penalized for taking

1 decisive, early steps, in consultation with state regulators, to  
2 address serious workers' compensation funding issues, and the  
3 Legislature finds and declares that a general statute cannot be made  
4 applicable within the meaning of Section 16 of Article IV of the  
5 California Constitution.

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